

HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 100

ADULT RESIDENTIAL CARE HOMES

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Historical note: This chapter addresses the amalgamation of care homes formerly licensed by the department of health under chapter 12B and boarding homes formerly licensed by the department of social services and housing under chapter 883.

§11-100-1 Purpose. This chapter establishes minimum requirements for the licensure of adult residential care homes in order to protect the health, welfare, and safety of residents in adult residential care homes.

§11-100-2 Definitions as used in this chapter: "Activities of daily living" means basic services required to be provided by the facility for benefit of residents in order to obtain and maintain a license and shall include, the following: personal care, shelter, protection, supervision, assistance, guidance or training, planned activities, food service, recognition of and provision for changes in health status, and arrangement for and transportation to medical and dental offices.

"Adult residential care home (ARCH)" means any facility providing twenty-four hour living accommodations, for a fee, to adults unrelated to the family, who require at least minimal assistance in the activities of daily living, but who do not need the services of an intermediate care facility. It does not include facilities operated by the federal government. There shall be two types of adult residential care homes:

- (1) Type I home for five or less residents; and
- (2) Type II home for six or more residents.

"Ambulatory" means able to walk without human assistance.

"Boarding home" means any home with a valid license and so certified by the department of social services and housing prior to July 1, 1986.

"Cardiopulmonary resuscitation" or "CPR" means an emergency first aid procedure that consists of opening and maintaining a patient's airway, providing artificial ventilation by means of rescue breathing, and providing artificial circulation by means of external cardiac compression.

"Category 1" means that the licensee of an adult boarding home meets the requirements of sections relating to training of this chapter and qualifies for an adult residential care home license.

"Category 2" means that the licensee of an adult boarding home does not meet the requirements of sections relating to training of this chapter but that the licensee intends to fulfill these requirements.

"Category 3" means that the licensee of an adult boarding home does not meet the requirements of sections relating to training of this chapter and does not intend to meet the requirements.

"Department" means the department of health, State of Hawaii.

"Dietitian" means a person who:

- (1) Is registered by the Commission on Dietetic Registration of the American Dietetic Association; or
- (2) Is eligible for such registration.

"Director" means the director of health, State of Hawaii.

"Existing buildings" means those buildings currently approved for occupancy by the department, or those for which construction plans are approved and stamped by the department and appropriate county and state government.

"Intermediate care facility (ICF)" means a facility which provides to persons referred by a physician, health related services which may be preventive, therapeutic, or restorative, which are above the adult residential care home level of room, board, laundry and personal care services, but less than skilled nursing facility care and services.

"Licensee" means the person who holds the license to operate an adult residential care home.

"Licensed capacity" means the number of residents and the type of residents permitted by the director in a particular adult residential care home, and so stated on the license.

"Licensed nurse" means either a licensed practical nurse or a registered professional nurse.

"Licensed practical nurse" or "LPN" means an individual licensed as a practical nurse by the State of Hawaii, pursuant to chapter 457, HRS.

"Nurse aide" means an individual who has completed a nurse aide course in a community college in Hawaii or an individual who completes an equivalent nurse aide course elsewhere and passes an equivalency test approved by the department or who has had one year of full time employment as a nurse aide under the supervision of a registered nurse in a hospital, skilled nursing facility, intermediate care facility, or home health agency.

"Nutritionist" means a person who has completed a master's degree in public health nutrition or nutritional sciences from an accredited university, and is a registered dietitian or is eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association.

"Occupational therapist" means a person currently registered or eligible for registration by the American Occupational Therapy Association, and meets the qualifications under chapter 457G, HRS.

"Operator" means the licensee of an adult residential care home licensed by the department who is responsible for the supervision of the care home and the residents therein, and also means the administrator of the adult residential care home.

"Physical therapist" means a person who is licensed as a physical therapist in the state.

"Physician" means an individual holding a valid license to practice medicine or osteopathy issued under chapters 453 or 460, HRS.

"Registered professional nurse" means a person who is licensed as a registered nurse in the State of Hawaii, as defined by chapter 457, HRS.

"Representative payee" means an individual who meets the requirements of the Social Security Administration to receive a Social Security payment on behalf of a resident.

"Resident" is a person unrelated to the operator who resides in an adult residential care home and who requires minimal assistance in the activities of daily living. Such persons do not need assistance from skilled, professional personnel on a regular long-term basis. Persons requiring an increased level of care may be permitted in adult residential care homes if the operator is deemed capable by the department of providing the necessary interim care while awaiting transfer to an appropriate facility.

"Responsible agency" means any public or private agency that has responsibility for the health, welfare, or financial support of the resident.

"Responsible adult" means an adult who temporarily takes charge of an adult residential care home during the absence of the licensee or operator. The person shall be capable of managing any event occurring in the home as well as the licensed operator could have managed had she/he been present.

"Skilled nursing facility (SNF)" means a health facility which provides the following basic services: skilled nursing care and supportive care 24-hours per day to patients whose primary need is for availability of skilled nursing care on an extended basis.

"Standard chest x-ray" means an 11" X 14" chest x-ray taken by standard techniques.

"Trained medical care" means care which requires a certain medical knowledge or medical skill which is not usually taught in a general educational curriculum or learned in a conventional life experience.

"Tuberculin skin test" means an intradermal injection of .0001 mg (5 tuberculin units) of purified protein derivative in 0.1 cc of sterile diluent. If the size of any resulting palpable induration at forty-eight hours to seventy-two hours after the injection is 10 mm or greater in its transverse diameter, the reaction to the skin test shall be considered significant.

Whenever the singular is used in this chapter it can include the plural.

§11-100-3 Licensing. (a) No person, or group of persons may operate an adult residential care home unless it is licensed by the department.

(b) Any person, or group of persons desiring to operate an adult residential care home shall apply to the department for a license on forms furnished by the department. The department shall issue a license if the proposed facility meets the requirements under this chapter.

(c) A license, when granted, shall be in force for one year, or at such other interval of time as may be decided by the department. If, upon due written notice from the department that the license is expiring, application for relicensure is not filed, the license shall be automatically cancelled as of the expiration date determined from the license.

(d) A provisional license may be issued for a specified period of time at the discretion of the department for the purpose of giving additional time for correction of deficiencies. Not more than two successive provisional licenses shall be issued to a specific adult residential care home.

(e) A waiver from a specific rule may be permitted a facility, for a specified period of time at the discretion of the department.

(f) Each license shall be issued to a person or a group of persons by name, as well as to a specific physical facility; any change in either requires that the department be notified in order to make a determination as to whether or not a new license needs to be issued. The license may not be transferred from one licensee or physical location to another. A separate license must be secured for each home.

(g) The license issued by the department shall be posted in a conspicuous place visible to the public, on the premises of the adult residential care home.

(h) Inspection visits may be made to a licensed adult residential care home at any reasonable time without prior notice for the purposes of confirming correction of deficiencies and for investigation of complaints. An approximate time for the annual inspection visit will be given to the operator.

(i) If there is contemplated an increase in the level of remunerative outside work being done by the licensee, the department shall be notified as soon as practicable, and in any case, prior to the change. Failure of this notification shall be considered sufficient grounds for license revocation. In the event that the licensee finds full time outside employment, then there shall be a person qualifying under section 11-100-6, who will assume the duties of the operator.

(j) Any new applicant who is not issued the type of license requested, or has not received a decision within two months after a completed application has been received by the department, may appeal the action of the department by notifying the director in writing. Appeal proceedings shall be in accordance with chapter 91, HRS, and the department's rules of practice and procedure.

(k) The department may require that a complaint concerning a specific adult residential care home be expressed in a signed statement.

(l) Current written policies covering the adult residential care home's rates, proposed staffing, visiting hours, emergency plans, access to records, and any other written policies required by this chapter for the type of residents proposed to be admitted, shall be submitted to the department prior to licensure.

(m) The applicant shall provide the department with evidence that the premises comply with state and county building, housing, fire, and other codes, ordinances, and laws for the type of occupancy to be licensed shall be supplied. Compliance shall include, but not be limited to the following:

- (1) Occupancy section of the county building code;
- (2) Applicable zoning ordinance of the county;
- (3) Obtainment of a use permit if required by the county;
- (4) Obtainment of a written approval to operate an adult residential care home from the owner when the home is rented, leased, or on leased land;
- (5) Applicable state laws and administrative rules relating to sanitation, health and environmental safety.

(n) There shall be full disclosure of adult residential care home ownership or control, and a projected annual budget showing the facility's expected income and expenditures based on an estimated sixty per cent occupancy rate. The financial resources of the owner shall be sufficient to operate the facility according to standards set forth in this chapter. The owner shall provide, upon request, such evidence as deemed necessary by the licensing agency to establish such fact.

(o) Such other information as the department may reasonably require for the purposes of this chapter shall be provided.

(p) Subsequent to issuance of an adult residential care home license, a representative of the director shall inspect each facility operation annually in accordance with a tentative schedule available in advance to the licensee.

§11-100-4 Transition licensing. (a) Any facility which has a valid adult boarding home license as of the date July 1, 1986, will be considered to have a provisional adult residential care home license which will be valid from July 1, 1986, until their current adult boarding home license expires.

(b) Any facility which has a valid adult boarding home license as of the date July 1, 1986, will receive an adult residential care home license on the date that the current adult boarding home license expires after July 1, 1986; provided that a facility having a valid adult boarding home license shall meet all the appropriate rules in this chapter except:

- (1) That sections relating to physical environment of this chapter need not be met as long as all residents are ambulatory, unless the director determines that failing to meet these rules would seriously jeopardize the health and safety of the residents in the facility;
- (2) Each facility shall select one of the following three categories: Category 1, Category 2, Category 3. The facility shall notify the department of this selection at least 30 days prior to the expiration date of the adult boarding home license.
 - (A) If a Category II facility contains a resident who needs trained medical care, the licensee must complete training and reach compliance with this chapter prior to July 1, 1987, or else the resident must be transferred to another facility;
 - (B) If a Category II facility does not contain residents who need trained medical care, the licensee has until July 1, 1988, to reach compliance with this chapter;
 - (C) In the case of subparagraphs (A) or (B), new residents may be accepted provided they do not need trained medical care;
 - (D) For Category III no new residents may be accepted by the facility; and
 - (E) Any residents in the home who need or who develop the need for trained medical care shall be transferred promptly to another facility.

§11-100-5 Licensing fees. Appropriate fees, if any, as determined by the director, shall be charged by the department for obtaining an initial license or obtaining a license renewal. Prior notice of the amount of the fee shall be provided the licensee.

§11-100-6 Personnel and staffing requirements. (a) To qualify as a licensee of a Type I adult residential care home, an individual shall:

- (1) Be at least eighteen years of age;
- (2) Be a nurse aide;
- (3) Have completed adult residential care home teaching modules approved by the department;
- (4) Have at least one year's experience working full time in an intermediate care facility, skilled nursing facility, home health agency, or hospital;
- (5) Have no activities outside the facility sufficiently demanding of the licensee's time and energy as to interfere with proper and adequate care of the residents;
- (6) Have no family responsibilities sufficiently demanding on the licensee's time and energy as to interfere with proper and adequate care of the residents;

- (7) Demonstrate to the department sufficient skill in the use of the English language to fully accomplish the objectives of the program and to comply with the requirements of this chapter;
- (8) Have achieved an acceptable level of skills in first aid, nutrition, and cardiopulmonary resuscitation and appropriate nursing and behavior modification techniques as required for care of all residents admitted to the facility;
- (9) Attend and successfully complete at least two training sessions per year as may be developed or recommended by the department;
- (10) Have knowledge of the availability of community services which may be utilized by the residents and operator.
- (b) The administrator of a Type II home in addition to the requirements in subsection (a), shall be able to demonstrate appropriate knowledge of:
 - (1) Administrative techniques;
 - (2) Business accounting;
 - (3) Large volume food purchasing and meal preparation;
 - (4) Supervisory personnel techniques;
 - (5) Large volume laundry handling techniques;
 - (6) Infectious disease control techniques.

§11-100-7 General staff requirements. (a) All individuals living in the adult residential care home, including those who provide services directly to residents shall have documented evidence that they have had examination by a physician prior to their first contact with the residents of the home. This examination shall be repeated yearly. The examination shall be specifically oriented to rule out infectious disease.

- (1) If the tuberculin skin test is positive, a standard chest x-ray and appropriate medical follow-up must be obtained. A yearly chest x-ray thereafter shall be required for three successive years;
- (2) If the tuberculin skin test is negative, a second tuberculin skin test shall be done after one week, but not later than three weeks, after the first test. The results of the second test are to be considered the baseline test and will be used to determine appropriate treatment follow-up. If the second test is negative, it shall be repeated once yearly thereafter until it becomes positive.

(b) Any individual providing services to the residents who develops evidence of an infectious disease shall be immediately relieved of any duties relating to food handling or direct resident contact, or both, and shall continue to be relieved of duties until such time as a physician certifies it is safe for the individual to resume the duties. Undiagnosed skin lesions, or respiratory tract symptoms or diarrhea shall be considered presumptive evidence of an infectious disease.

(c) There shall be clear documentation that all those who provide services to residents have been informed concerning subsections (a) and (b).

(d) The responsible adult shall have, as a minimum, the following skills for the respective time periods of absence of the licensed care home operator. This does not preclude the temporary transfer of the residents to another suitably licensed and staffed adult residential care home.

<u>Duration of absence of care home operator</u>	<u>Required skills of the responsible adult</u>
As long as zero-three hours	1) Able to communicate (read and write) in the English language. 2) Make medications available to residents and properly record such action.
As long as four-six hours	In addition to above, must be able: 3) To cook and serve a meal. 4) Give necessary feeding assistance. 5) Be CPR certified. 6) Have first aid training. 7) Be able to give personal care. 8) Be able to dress and bathe residents. 9) Be able to continue recreational programs. 10) Be able to transport residents to out-of-home events and appointments. 11) Be able to carry out necessary transfer techniques. 12) Be able to accurately take and record temperature, pulse, and respiration.
Greater than six hours hours	In addition to above, must be able to 13) Do necessary shopping for home and residents. 14) Follow planned menus including special menus and be able to make appropriate substitution if required. 15) Have sufficient knowledge and experience in nursing techniques to care for the residents.

(e) In Type II homes there shall be:

(1) An adequate number of qualified staff, as determined necessary by the department, awake, dressed, and on duty at all times;

(2) At least one staff member of each shift shall be a nurse aide or a licensed nurse;

- (3) Where there are prescribed medications and treatments on the evening and night shifts, there shall be designated a properly trained person to administer the medications and treatments under the general supervision or directions of a licensed nurse, or someone who has equivalent training as determined by the department;
- (4) Duties and responsibilities of all employees shall be clearly defined in writing and each staff shall be thoroughly instructed and oriented in all duties assigned them;
- (5) No staff person shall work more than two consecutive eight hour shifts within a twenty-four hour period.
- (f) The licensee of a Type I home shall give as much advance notice to residents and responsible agencies as possible, but not less than one week, except for emergencies, if the licensee plans to be absent for more than two days. Plans for coverage during the period of absence by a responsible adult shall be handled on an individual basis and shall be submitted in writing to the department for approval. Responsible adults shall have current tuberculin clearances and be physically and mentally capable of providing all necessary services to residents.
- (g) Facility policies shall include arrangements for staff members to attend the minimum of two continuing education courses or workshops per year. These may include courses in nutrition, nursing, recreational activities, first aid, mental health, and others as arranged, or provided by the department.
- (h) All inservice training and other educational experiences for employees and operators shall be documented and kept current.
- (i) If it is deemed advisable, the department may require an examination by a physician of any licensee or operator as a condition for continued licensure. The examination shall be specifically oriented to determine if the licensee is capable of caring for the residents.

§11-100-8 Admission policies. (a) Admission to a licensed adult residential care home shall be based primarily on the nature and extent of the resident's needs and licensee's capabilities. Written admission policies regarding resident care needs and services which will be provided shall be submitted for review to the department prior to licensure. Information concerning each resident shall also be supplied at the time of each license renewal survey.

- (b) No licensed adult residential care home shall deny admission to any individual solely on account of race, color, religion, ancestry, or national origin.
- (c) The licensee has the right to refuse a person for admission if the licensee does not have the capability for providing appropriate care.
- (d) The number of residents, and level of care required for residents, shall not exceed its licensed capacity and capabilities of staff as determined by the department.

§11-100-9 Emergency care of residents and disaster preparedness. (a) There shall be written procedures to follow in an emergency which shall include provisions for the following:

- (1) Arranging for rapid physician attention or for obtaining other available assistance, such as a crisis response shelter, for any resident who becomes acutely ill, injured, or dies;

- (2) Transportation arrangements for hospitalization or any other services which are appropriate.
- (b) Maintenance of an appropriate first aid kit for emergency use.
- (c) Regular quarterly rehearsal of emergency evacuation plans for staff and residents to follow in case of fire, explosion, or other civil emergency occurring in or within the environs of the facility.

§11-100-10 Food service. (a) For Type II care homes food service shall be in compliance with chapter 1-A, Administrative Rules entitled "Food Service and Food Establishment Sanitation" or as amended.

(b) Meals shall be well balanced and sufficient in quantity, quality, and variety to meet nutritional requirements of residents and shall be in accordance with the National Research Council's most current "Recommended Dietary Allowance", and adjusted to age, sex, activity, and disability.

(c) Menus shall be written at least one week in advance. Current menus shall be posted in the kitchen and a record of menus with any food substitutions kept for six months for review. If cycle menus are used, a minimum of four weeks of menus shall be required.

(d) All foods shall be procured, stored, prepared, and served under sanitary conditions.

- (1) Foods shall be prepared by methods which conserve their nutritional quality. All foods shall be from sources approved or considered satisfactory by the department;
- (2) Foods shall be selected and prepared to meet the food desires and habits of residents as much as possible, provided nutritional quality is maintained. There shall be a minimum of three days' food supplies, which will be adequate for the number of people to be served;
- (3) All foods shall be stored in covered containers;
- (4) Refrigerators shall be equipped with an appropriate thermometer and temperature shall be maintained at 45°F or lower. Potentially hazardous foods shall meet proper temperature requirements during storage, preparation, display, service, and transportation;
- (5) Toxic chemicals and cleaning agents, such as, insecticides, fertilizers, bleaches, and all other poisons shall be properly labeled and securely stored apart from any food supplies;
- (6) Rooms used for the storage of food and supplies shall be well ventilated;
- (7) For Type II homes an adequate enclosed area shall be designated for the preparation and serving of food to protect against the entrance into the establishment and the breeding or presence on the premises of vermin. Food service areas shall be easily accessible for delivery of food and supplies and removal of kitchen wastes;
- (8) All employees shall wash hands thoroughly before starting work and as often as necessary to remove soil and contamination and after personal use of bathroom facilities;

- (9) Water supply shall be of a safe, sanitary quality and from an approved source. Hot and cold running water under pressure shall be provided in all areas where food is prepared, or equipment, utensils, or containers are washed.
 - (e) Meal service.
 - (1) A minimum of three meals shall be provided at regular intervals in each twenty-four hour period;
 - (2) There shall be not more than fourteen hours between a substantial evening meal and breakfast;
 - (3) Meals shall be served attractively, in a comfortable, pleasant atmosphere in the designated dining area. Eating utensils and dishes designed to meet the needs of each resident shall be provided.
 - (f) Special diets shall be provided for residents only when ordered by a physician. Only those operators who have had dietary training approved by the department may accept residents requiring such special diets. In Type II homes there shall be consultation by a registered dietitian or nutritionist from the department concerning the dietary needs of clients on special diets, and in type I homes whenever possible.
 - (g) Diet orders shall be updated as necessary and at least annually by a physician. Verbal orders for diets shall be recorded on the physician order sheet by the qualified person receiving the verbal orders and written confirmation by the attending physician shall be obtained during the next office visit.
 - (h) Additional food: In addition to regular meals, supplemental food shall be offered the residents whenever the interval between meals is prolonged or as needed to meet nutritional needs.
 - (i) Vitamin and mineral supplements and formula meals shall be administered to residents only as prescribed by a physician.
 - (j) Suitable space and apparatus shall be provided for cleaning and sanitizing all food service equipment.
 - (k) Personnel.
 - (1) There shall be sufficient number of competent persons to manage, prepare and serve food to residents;
 - (2) Where necessary the operator shall provide to the resident(s) systematic training to develop appropriate eating skills;
 - (3) Dining rooms shall be adequately supervised and staffed according to resident needs for the direction of self-help procedures, and to assure that each resident receives an adequate amount of food.
- §11-100-11 General operational policies. (a) General operational policies shall be submitted in writing to the department prior to licensure and shall include:
- (1) Admission policies as specified in section 11-100-8;
 - (2) Types of services provided to residents as specified in section 11-100-2; activities of daily living;
 - (3) A clear definition of the responsibility of the facility to resident and family, legal guardian, or responsible agency;
 - (4) Rates;
 - (5) Visiting hours;
 - (6) Emergency measures; and
 - (7) Responsibilities of the operator, staff, and residents.

(b) The policies approved by the department shall be explained and a copy provided to the resident, family, next of kin, guardian, or responsible agency prior to the resident's admission. A written agreement shall be completed at the time of admission between the facility and the resident, legal guardian, or responsible agency which sets forth the resident's rights, the resident's responsibilities to the facility, the facility responsibilities to the resident, and the services which will be provided by the facility according to the resident's plan of care.

§11-100-12 Medications. (a) All medicines shall be properly and clearly labeled. The storage shall be in a staff controlled work cabinet-counter apart from either resident's bathrooms or bedrooms.

(b) Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. Medications that require storage in a refrigerator shall be properly labeled and kept in a separate locked container.

(c) Compartments shall be provided, for each resident's medications and separated as to:

(1) External use only; and

(2) Internal use only.

(d) All poisons shall be plainly labeled and stored separately in a locked cabinet.

(e) Appropriate liquid medicine measuring devices shall be available and in use when liquid medicine is administered.

(f) All medications and supplements, such as vitamins, minerals, and formulas, shall be made available or administered only upon the order of a physician and shall be based upon current evaluation of the client's condition. Written and signed documentation of all orders by a physician shall be recorded on the physician's order sheet.

(g) All medication orders shall be reevaluated and signed by the physician every four months or at the next physician's visit, whichever comes first.

(h) All verbal orders for medication shall be recorded on the physician's order sheet by the qualified person receiving the verbal orders and written confirmation by the attending physician shall be obtained during the next office visit, but not later than four months.

(i) Only appropriately trained staff or operators shall be allowed to administer or make available prescribed medications to residents.

(j) Medications shall not be offered to any resident other than the one for whom they were ordered.

(k) Medication errors and drug reactions shall be reported immediately to the physician responsible for the medical care of the client and shall be properly documented in the resident's record.

(l) Unused medications shall be disposed of by flushing down the toilet.

(m) All medications and supplements, such as vitamins, minerals, and formulas, when taken by the resident, shall be recorded on the resident's medication record, with date, time, name of drug, and dosage initialed by the responsible person.

§11-100-13 Plan of care. (a) Each resident shall be given proper daily personal attention and care including skin, nails, hair, teeth, and oral hygiene in addition to any therapeutic regimen ordered by the resident's physician.

(b) Residents shall be taught and encouraged to perform health, hygiene, and grooming practices, including bathing, brushing teeth, shampooing, combing and brushing hair, shaving and caring for toenails and fingernails as independently as possible and be assisted as necessary.

(c) Operators shall be responsible for proper care of and encourage the use of dentures, eye glasses, hearing aids, braces and prostheses and ambulatory equipment. The resident, or resident's guardian or responsible agency, shall be responsible for any costs involved with maintenance of the above.

(d) When ordered by a physician or psychologist, operators shall provide an appropriate training program for every resident who has problems with elimination. Progress shall be documented for each resident receiving such training.

(e) Residents who are incontinent shall be bathed or cleaned promptly upon voiding and soiling. All soiled items shall be segregated and appropriately stored until they can be properly cleaned.

(f) Personal clothing:

(1) Residents shall be dressed in appropriately labeled, cleaned, suitable, comfortable clothing at all times;

(2) Residents shall be encouraged to select appropriate clothing, and dress themselves.

(g) Any therapeutic regimen as ordered by the resident's physician or therapist shall be provided.

§11-100-14 Records and reports. (a) Individual records shall be maintained for each resident. On admission, readmission, or transfer there shall be:

(1) A report of a recent medical examination and current diagnosis taken within the preceding three months and report of an examination for tuberculosis performed within the year prior to admission. The examination for tuberculosis shall be the same as required by the caretaking personnel section 11-100-7(a)(1) and (2);

(2) Height and weight measurements taken;

(3) An inventory of money and valuables. This inventory shall be maintained current;

(4) Recording of identifying information such as resident's name, social security number, racial extraction, marital status, date of birth, sex, and minister or religious denomination, and information about medical plan or coverage. A recording of the address and telephone number of the referral agency, place or source from which admitted, physician, dentist, ophthalmologist, optometrist, psychiatrist, and all other medical or social service professionals who are currently treating the resident, next of kin, guardian, or other legally responsible agency.

- (b) During residence, records shall include:
 - (1) Copies of physician's initial, annual and other periodic examinations, evaluations, progress notes, relevant laboratory reports, and a report of annual re-examination for tuberculosis;
 - (2) Observations of the resident's response to medication, treatments, diet, plan of care, any changes in condition, indications of illness or injury, behavior patterns including the date, time, and actions taken, if any, recorded monthly or more often as appropriate and immediately where any incident occurs;
 - (3) Entries describing treatments and services rendered;
 - (4) Medications administered or made available;
 - (5) Physician's signed orders for diet, medications, and treatments;
 - (6) All recordings of temperature, pulse, respiration as ordered by a physician or as may appear to be needed. Physicians shall be advised of any changes in physical or mental status promptly;
 - (7) Recording of resident's weight at least once a month, and more often when requested by a physician or a responsible agency;
 - (8) Notation of visits and consultations made to residents by other professional personnel as requested by the resident or the resident's physician;
 - (9) Correspondence pertaining to the resident's physical and mental status.
- (c) Unusual incidents shall be noted in the resident's progress notes. An incident report of any bodily injury or other unusual circumstances affecting a resident which occurs within the home, on the premises, or elsewhere shall be retained by the facility under separate cover, and be available to the department and other authorized personnel. The resident's physician shall be called immediately if medical care is necessary.
- (d) When a resident is transferred a written transfer summary shall be prepared and a copy given promptly to the receiving facility, which shall include:
 - (1) The reason for the transfer;
 - (2) Evidence of prior notice or the written consent of the resident's legal guardian;
 - (3) Current physical and mental status of resident;
 - (4) Current diet, medication, and activity orders signed by a physician.In the course of an emergency transfer, as much of the information required in subparagraphs (1) to (4) shall be given as time permits.
- (e) General rules regarding records:
 - (1) All entries in the resident's record shall be written in ink, or typewritten, shall be legible, dated, and signed by the individual making the entry;
 - (2) Symbols and abbreviations may be used in recording entries only if they conform to standard medical symbols or a legend is provided to explain them;
 - (3) An area shall be provided for safe and secure storage of resident's records which must be retained in the facility for periods prescribed by state law;
 - (4) All records shall be completed and current and readily available for review by the department, or responsible placement agency.

(f) All information contained in resident's record shall be treated by the staff as confidential. Written consent of the resident or resident's guardian, shall be required for the release of information to persons not otherwise authorized to receive it. Records shall be secured against loss, destruction, defacement, tampering, or use by unauthorized persons. There shall be written policies governing access to, duplication of, and release of any information from the resident's record. Records shall be readily accessible and available to authorized department personnel for the purpose of determining compliance with the provisions of this chapter.

(g) Miscellaneous records:

- (1) A permanent general register shall be maintained to record all admissions and discharges of residents;
- (2) When requested statistical information shall be provided to the department;
- (3) Records of disaster evacuation and safety drills shall be available for inspection.

§11-100-15 Recreational, rehabilitative programs, and social services. (a) Residents shall be up and out of bed and appropriately dressed, daily unless physician's orders indicate otherwise.

(b) The licensee shall provide social and recreational activities for residents on a regular basis and shall encourage participation in activities according to the resident's interests, needs, and capabilities.

(c) Residents shall be encouraged to participate in work, educational, recreational, social, and health activities held by community agencies.

(d) The licensee shall recognize the need for and provide a warm, emotionally accepting atmosphere to residents. Residents shall be included, as much as possible, in all aspects of family life to help foster a greater sense of belonging.

(e) Visits with relatives and friends shall be encouraged.

(f) The licensee shall provide the resident with access to a radio or television.

(g) Arrange and provide for appropriate social services through private or public resources.

(h) The licensee shall arrange or provide means of transportation for residents to:

- (1) Visit physician and other medical providers;
- (2) Make facility transfers;
- (3) Engage in activities outside the home.

§11-100-16 Resident accounts. (a) The conditions under which the licensee agrees to be responsible for the resident's funds or property shall be explained to the resident, and next of kin or to the guardian, and documented in the resident's file. All single transfers with a value in excess of \$100 shall be supported by an agreement signed by the licensee and the resident or the resident's guardian.

(b) No person associated with the ownership or operation of an adult residential care home shall serve as guardian of the estate or as a trustee for any resident in the home.

(c) The licensee may be permitted to become a representative payee under conditions prescribed by the Social Security Administration.

(d) An accurate written accounting of resident's money and disbursements shall be kept on an ongoing basis, including receipts for expenditures, and a current inventory of resident's possessions.

(e) Upon request of the resident, or if the resident is legally incompetent, the duly appointed legal guardian, or responsible agency, the resident's personal property kept by the operator for safekeeping may be released. This transaction must be documented.

§11-100-17 Resident health care standards. (a) The operator shall provide health care within the operator's capabilities to the resident as prescribed by a physician.

(b) The operator shall be able to recognize, record, and report to the resident's physician significant changes in the resident's health status including, but not limited to, convulsions, fever, sudden weakness, persistent or recurring headaches, voice changes, coughing, shortness of breath, changes in behavior, swelling limbs, or abnormal bleeding.

(c) When in the opinion of the operator a resident has suffered a significant change in mental or physical well-being, a prompt report to the resident's physician shall be made. Any change in physician's orders shall be promptly carried out.

(d) Arrangements shall be made by the operator for an annual dental examination. Emergency dental care, also, shall be arranged.

(e) Residents shall be accompanied to emergency rooms and other medical care facilities with adequate records; a responsible person shall be available by phone.

§11-100-18 Residents' rights. (a) Written policies regarding the rights of residents during the stay in the home shall be established and shall be made available to the resident, any guardian, next of kin, sponsoring agency or representative payee, and to the public. The home's policies and procedures shall provide that each individual admitted to the home shall:

(1) Be fully informed, prior to or at the time of admission, of these rights and of all rules governing resident conduct. There shall be documentation signed by the resident that these procedures have been carried out;

(b) The operator shall be able to recognize, record, and report to the

(2) Be fully informed, prior to or at the time of admission, and during stay, of services available in or through the facility and of related charges, including any charges for services not covered by the home's basic per diem rate;

(3) Be given advance notice, preferably two weeks, of transfer or discharges;

(4) Be encouraged and assisted to exercise the resident's rights, i.e., to voice grievances, and recommend changes in policies and services to staff or outside representatives of the resident's choice, free from restraint, interference, coercion, discrimination, or reprisal;

(5) Have explained to them the conditions under which the facility may manage the resident's personal financial affairs as detailed in section 11-100-16;

- (6) Not be humiliated, harassed, or threatened, and be free from chemical and physical restraints. Physical restraints may be used in an emergency when necessary to protect the resident from injury to self or to others. In such a situation the resident's physician must be notified as soon as possible and further orders obtained for the care of the resident;
- (7) Have their personal and medical records kept confidential and subject to release only as provided in sections 11-100-14(a)(8) and 11-100-(a)(9);
- (8) Be treated with understanding, respect, and full consideration of the resident's dignity and individuality, including privacy in treatment and in care of the resident's personal needs;
- (9) Not be required to perform services for the facility, its licensee or staff unless agreed to by the resident and documented;
- (10) Have the right to associate and communicate privately with persons of the resident's choice, and to send and receive the resident's personal mail unopened;
- (11) Have the right to meet with and participate in activities of social, religious, and community groups at the resident's discretion, unless medically contra-indicated;
- (12) Retain and use personal clothing and possessions as space permits, unless to do so would:
 - (A) Infringe upon the rights of other residents, or
 - (B) Is specially forbidden by written orders of the resident's physician;
- (13) If married, be assured of privacy for visits by the spouse and, if both are residents in the home, be permitted to share a room if agreeable to both;
- (14) Have daily visiting hours and provisions for privacy established;
- (15) Have the right to reject living in a particular facility;
- (16) Shall not have dietary restrictions as punishment;
- (17) Have a right to locked storage space;
- (18) Have a right to be free from ill treatment, physical punishment, exploitation, neglect or physical abuse.

§11-100-19 Transfer and discharge of residents. Two weeks notice, except in an emergency, shall be given to the resident, the legal guardian, and the case management agency of a transfer to an appropriate facility, or discharge to another living arrangement, or transfer within the facility when:

- (1) Ordered by the resident's physician;
- (2) Physical or mental changes of the resident necessitates services which cannot be provided;
- (3) Physical or mental changes of the operator results in the inability of the operator to provide the service;
- (4) Resident wishes to transfer;
- (5) Operator wishes to transfer the resident.

§11-100-20 Physical environment. (a) For all homes, suitability of site, quietness, sanitary features of the immediate environment, accessibility, and proximity to the community to be served shall be considered in licensing a facility and shall include the following:

- (1) The building site shall be free of excessive noise, dust, or odors and shall have good drainage;
 - (2) The building shall be provided with adequate means of sewage, garbage, and other refuse disposal, approved potable water supply, and electricity;
 - (3) The facility shall be accessible by a good road and preferably be near a means of public transportation. Where necessary the facility shall provide transportation to available public conveyances;
 - (4) Resident living areas shall be designed and equipped for the safety, comfort, and privacy of the resident;
 - (5) Any person such as a day care person or relative regularly utilizing the portions of the home designated for residents shall be considered as residents for purposes of calculating the space requirements of subsections (g)(2), (h)(1), (k)(2), and (k)(3). The person shall also fulfill the requirements of section 11-100-7(a)(1), (a)(2), and (b).
- (b) Fire prevention protection.
- (1) Adult residential care homes licensed under this chapter shall initially comply, and shall be inspected by appropriate fire authorities for compliance, with state and county codes, ordinances, and laws;
 - (2) Type I adult residential care homes shall be in compliance with but not limited to the following provisions:
 - (A) Fire escapes, stairways and other exit equipment shall be maintained operational and in good repair and free of obstruction;
 - (B) Each adult residential care home shall have a written plan for the safe care and evacuation of residents to areas of refuge in case of emergency. This plan shall be reviewed, and updated if necessary, whenever there is a significant change in the physical or mental condition of a resident or whenever a new resident enters the facility. All personnel shall be instructed in their respective duties in carrying out this plan. The written plan with directional diagrams shall be posted in a conspicuous location within the facility;
 - (C) A drill shall be held to provide training for residents and personnel on each shift at least four times a year, and the record shall contain the date, hour, personnel participating and description of drill, and the time taken to evacuate the building. A copy of the fire drill procedure and results shall be submitted to the fire inspector upon request;

- (D) There shall be an adequate system of communication to summon help in case of fire or other emergency. This shall include a minimum of at least telephone service. Inside stairways shall be provided for communication between floors within the facility. All rooms utilized by the facility, under the same roof, shall be connected by interior doors. The communication system shall assure:
 - (i) Prompt contact of on-duty personnel; and
 - (ii) Prompt notification of responsible personnel in the event of emergency;
- (E) Smoking shall be permitted only in approved areas where proper equipment and supervision is provided;
- (F) An automatic hard wiring UL approved smoke detector system shall be installed for all newly licensed Type I homes. Existing Type I homes may continue to use battery operated individual smoke detector units, however, upon transfer of ownership or care home operator, such units shall be replaced with an automatic hard wiring UL approved smoke detector system;
- (G) The number and size of fire extinguishers shall be provided as recommended by the fire department;
- (H) Each resident of a Type I home must be certified by a physician that the resident is ambulatory and capable of following directions and taking appropriate action for self-preservation under emergency conditions, except that a maximum of two residents, not so certified, may reside in the Type I home provided that either:
 - (i) For each such non-certified resident there must be a responsible adult on the premises of the home at all times that the non-certified resident is present in the home, and there must never be a stairway which must be negotiated for emergency exit by such non-certified resident; or
 - (ii) Type I homes having residents not so certified shall have a sprinkler system installed throughout in accordance with the National Fire Protection Association (NFPA) Standard 13-D, Sprinkler Systems, One and Two Family Dwellings; or
- (3) Type II adult residential care homes shall be in compliance with the requirements for Group I occupancies as defined in the Uniform Building Code and as detailed in applicable chapters of the NFPA 101 Life Safety Code adopted by reference by the state fire code and respective county fire codes. Compliance shall include but are not limited to the following:
 - (A) All exits in Type II homes shall be lighted from sunset to sunrise and under other conditions required by applicable provisions of the state and county fire codes;
 - (B) Night lighting shall be provided in hallways and bathrooms;

- (C) An approved secondary source of power (generator or battery operated) for emergency lighting of exits shall be operational at all times.
- (c) The facility shall maintain all equipment in good repair to minimize hazards to residents and staff.
 - (1) Housekeeping:
 - (A) A plan shall be made and implemented for routine periodic cleaning of the entire building and premises;
 - (B) After discharge of any resident, the bed, bed furnishings, bedside furniture and equipment shall be thoroughly cleansed prior to subsequent resident admission;
 - (C) Floors in resident areas shall be cleaned at least once daily;
 - (D) All walls, ceilings, windows and fixtures shall be kept clean.
 - (2) Temperature control:
 - (A) Temperature and humidity may be maintained within a practical comfort range by heating, air conditioning, or other means in accordance with residents' needs and desires;
 - (B) Any heating apparatus or appliances, or open flame in stoves, water heaters and fireplaces shall conform to Underwriters' Laboratories standards as they existed on the date of adoption of this chapter.
 - (3) All homes shall comply with applicable state laws and rules relating to sanitation, health and environmental safety;
 - (4) Water supply. Hot and cold water shall be readily available to residents for personal washing purposes. Temperature of hot water at plumbing fixtures used by residents shall be regulated and shall not exceed 110°F.
- (d) New construction or alterations to existing facility shall comply with current county building codes in the state. The facility shall be accessible to and functional for, physically handicapped residents if they are to be admitted.
 - (1) Windows:
 - (A) A habitable room shall have an aggregate window area of not less than one-tenth of the gross floor area;
 - (B) In rooms used by wheelchair residents, windows shall be low enough to permit comfortable viewing of the outside by residents in wheelchairs;
 - (C) Windows in residents' rooms shall have adequate means of insuring privacy;
 - (D) Service rooms, except closets and other rooms which are not designed for occupancy by human beings, shall have an aggregate window area of not less than one-twelfth of the gross floor area or six square feet, whichever is greater, provided that the aggregate window area of such rooms in a facility may be not less than five per cent of the gross floor area or three square feet, whichever is greater.

- (2) Windows shall be screened with screens having not less than sixteen meshes per inch.
- (3) Doors:
 - (A) Two exit doors shall be included which are remote from each other and shall be provided for each floor or separate building. All doorways through which wheelchairs or walkers must pass shall be at least thirty-two inches in clear width;
 - (B) Sliding doors and folding doors shall not be used as exit doors, but where used in service areas not utilized by residents, shall be of light material and easy to handle;
 - (C) Double-acting swinging doors shall be provided with vision panels not less than two hundred square inches in size. The vision panels must extend low enough to be used by persons in wheelchairs;
 - (D) Provision for the free passage of handicapped residents, including wheelchair residents, to rooms, toilets, corridors, and exits shall be maintained at all times;
 - (E) Each occupied room shall have access to required exits.
- (4) Lighting:
 - (A) Appropriate lighting fixtures adequate in number shall be provided for the comfort of residents and personnel;
 - (B) Residents' rooms shall have artificial light adequate for reading at bedside. This lighting shall be at least thirty foot candles at normal reading height;
 - (C) In Type II homes all fire exit indicator boxes shall be of metal construction and be lighted with at least a twenty-five watt bulb;
- (5) In multi-level homes there shall be an inside enclosed stairway. Ramps shall not exceed a slope of more than one inch per foot and shall be provided with non-slip material. Elevators, stairways and ramps and handrails shall comply with county building codes;
- (6) In Type I homes corridors shall be thirty-six inches wide, except that Type I homes which have residents who require the use of a wheelchair, corridors shall be sixty inches wide. Type II homes shall have corridors at least eight feet wide;
- (7) Floors and walls;
 - (A) Floors shall be nonabrasive and slip resistant and flush at doorways;
 - (B) Floors shall be of material which do not retain odors.
- (e) Waste disposal:
 - (1) Every facility shall provide a sufficient number of watertight receptacles, acceptable to the department for rubbish, garbage, refuse, and other matter. These receptacles shall be kept closed by tight fitting covers;
 - (2) A utility area shall be provided to wash and clean garbage containers and for storing garbage, trash, and solid waste;
- (f) Storage space:
 - (1) Space shall be provided for janitor's supplies and equipment;
 - (2) Space for resident's luggage and other bulky possessions and equipment shall be provided on a limited basis and located in a safe and convenient place.
- (g) An enclosed dining area within the building shall be provided for

residents which shall be apart from sleeping quarters but may be in continuity to the living room area. The following shall prevail:

- (1) At least one table with twenty-nine inches clearance between floor and lower edge shall be provided to allow for those residents using wheelchairs;
- (2) Dining space allotment shall not be less than twenty square feet per licensed resident capacity;
- (3) Residents shall be served meals in dining rooms unless they are temporarily confined to their bedrooms;
- (4) Safe supportive chairs shall be provided in accord with each resident's need;
- (h) Dayroom/living room:
 - (1) Provisions shall be made for at least one conveniently located enclosed area for recreational, social and activity needs of the residents within or contiguous to the facility.
 - (2) Dayroom shall be equipped with reading lamps, tables, chairs, and other appropriate furnishings for the use and comfort of the residents but shall not include beds.
- (i) Provisions shall be made for safe out-of-door area for the use of residents.
- (j) New construction or alterations to existing facilities shall meet the following requirements:
 - (1) At least one toilet, lavatory and bathtub or shower shall be provided for each floor occupied by residents for sleeping and shall be in compliance with county building code provisions for the physically handicapped;
 - (2) There shall be:
 - (A) One toilet for each eight occupants;
 - (B) One shower for each fourteen occupants;
 - (C) One lavatory for each ten occupants;
 - (3) Toilets, bathtubs and showers shall have provisions for individual privacy;
 - (4) All toilets shall be conveniently located;
 - (5) Showers shall have a minimum floor area of sixteen square feet arranged and located to accommodate residents in wheelchairs and the attendant providing personal care and shower entrance must be at least thirty-two inches wide. Adjacent areas must be protected from flooding or floor wetness which could constitute an unsafe area;
 - (6) Bathtubs shall have bases flush with the floor;
 - (7) Unless disposable units are used, equipment for terminal sterilization of personal care items, including bedpans, shall be provided in an appropriate area of the home;
 - (8) Handrails at a height of thirty-two inches and grab bars must be appropriately placed for the physically handicapped;

- (k) Bedrooms:
 - (1) General conditions:
 - (A) Bedrooms shall be at or above grade level;
 - (B) There shall be an adequate number of rooms provided for immediate family members as well as residents;
 - (C) Bedrooms shall not be used for recreation, cooking, dining, storage, bathrooms, laundries, foyers, corridors, lanais, and libraries;
 - (D) Access from each bedroom to a bathroom, toilet, corridor, central utility or other area shall be arranged to avoid passing through another bedroom or cooking, dining, or recreational area;
 - (E) Bedrooms shall be conveniently located near adequate toilet and bathing facilities appropriate in number, size, and design to meet the needs of the residents;
 - (F) All occupants of any bedroom shall be of the same sex except for designated semi-private rooms which may be occupied by a mixed sex couple if the licensee and both residents agree to the living arrangements;
 - (G) There shall be adequate space to allow free movement of occupants using wheelchairs, walkers, canes, and crutches;
 - (2) In Type II homes, the number of occupants in bedrooms shall be limited to a maximum of four. In Type I homes, newly licensed after the effective date of these rules, the number of occupants in bedrooms shall be limited to a maximum of two.
 - (3) Floor space:
 - (A) Minimum usable floor space allowable shall be seventy square feet per bed in a multiple bedroom and ninety square feet per bed in a single bedroom, excluding toilet, closets, lockers, alcoves, and vestibules;
 - (B) Beds shall be placed at least three feet apart in multiple occupant bedrooms;
 - (C) In new facilities, construction, or renovation, closet space for residents shall be provided within the bedroom, allowing a minimum of thirty inches in width, twenty inches in depth, and five feet in height per person exclusive of bedroom space;
 - (D) Hanging clothes rods and shelves shall be adjusted as necessary.
 - (4) Bedroom furnishings:
 - (A) Each resident shall be provided for their individual use, a clean bed including spring with mattress, at least thirty-six inches wide, of proper length and height for the resident and to permit an individual in a wheelchair to get in and out of bed unassisted;
 - (B) Each bed shall be supplied with a comfortable mattress cover, a pillow, pliable plastic pillow protector, pillow case, and an upper and lower sheet. A sheet blanket may be substituted for the top sheet when requested by the resident;
 - (C) A suitable bedspread shall be used on each resident's bed.

- (5) Miscellaneous:
 - (A) Conveniently located space for personal care items and for equipment, such as crutches and wheelchairs, shall be provided;
 - (B) Walkers, wheelchairs, canes, crutches and bedside rails shall be provided by the residents;
 - (C) Equipment for bedside care shall be stored in resident's bedside stand or other adjacent enclosed space;
 - (D) There shall be adequate provision for privacy when caring for resident or when requested by the resident and an individual bath sheet blanket shall be used when bed baths are given;
 - (E) There shall be a means of signaling attendants at bedside, in bathrooms, toilets, and in other areas where residents may be left alone;
 - (F) Each resident shall be provided a clean drinking glass and other necessary containers at bedside if needed;
 - (G) If bedpans are used, suitable bedpan flushing attachments to existing toilets must be available and used;
- (6) Care homes licensed prior to the effective date of this chapter shall have one year after adoption of this chapter to correct deficiencies cited at the next annual inspection relating to physical environment standards. In the event extensive structural changes are required, the department may accept modifications if the home has been inspected and approved by local fire authorities.
- (7) New construction, additions, alterations:
 - (A) Drawings and specifications for all new construction or additions, alterations or repairs to existing buildings shall be submitted to the department for review prior to construction;
 - (B) While final authority to approve the construction and fire safety features of such building rests with county agencies and fire marshals, if construction drawings and specifications are submitted to the department, the department shall promptly review such submittals and make every effort to advise the applicant of features which appear nonconforming;
 - (C) Minor alterations which do not affect structural integrity, fire, safety, or which do not change functional operation, or increase beds or services over that for which the facility is licensed may be submitted by freehand drawings or sketches.
- (8) Maintenance:
 - (A) Maintenance and repair routinely performed by the facility do not require review or approval by the department;
 - (B) Facilities shall be maintained in accordance with provisions of state and local zoning, building, fire safety and health codes;
- (9) Any facility holding a valid license to operate an adult boarding home at the date of adoption of these rules shall be exempt from the provisions of this section as long as all residents remain fully ambulatory except that the department may reject an application for license if granting a license would seriously jeopardize the health or safety of the residents of such a facility;

- (10) Any waivers granted in respect to the provisions of this section to care homes which are licensed at the time of adoption of these rules will continue in force until such time as the ownership changes, or the license is revoked or suspended, or lapsed; at which time the waivers are cancelled. The definition for "resident" applies at all times.

§11-100-21 Violations: license suspension, revocation, and other penalties. (a) Whenever the department causes an investigation or inspection to be made and discovers that any of the requirements of this chapter have been violated, the department shall notify the licensee of such violations in writing. In such notification, the department shall set forth the specific violations and establish a specific and reasonable time for the correction of each violation. In the event deficiencies are not corrected in accordance with the notice, the department may initiate proceedings for invoking fines as provided in chapter 321 HRS, or may suspend or revoke the license after proceedings in accordance with chapter 91, HRS and department of health rules of practice and procedure.

(b) The department, after due written notice, and after suitable opportunity for a hearing may suspend, revoke, or refuse to issue or renew a license to any person because of failure to meet:

- (1) The requirements of this chapter; or
- (2) The conditions under which the license was issued.

(c) Any person affected by the department's decision to deny, suspend, revoke, or renew a license may appeal this decision in accordance with chapter 91, HRS.

(d) Any person who violates any rule of the department shall be penalized as provided in chapter 321-20, HRS.

(e) Any facility believed to be operating as an adult residential care home shall be subject to inspection by persons authorized by the director.

- (1) If the director's representative is refused entry into the home, the department may obtain an inspection warrant from a judge of the circuit court;
- (2) If the facility meets the definitions in section 11-100-2, the responsible person in the home, within ten working days, shall file with the department, an application to acquire licensure according to this chapter;
- (3) Persons who fail to file an application with the department within ten working days of notice to file, shall be subject to penalties invoked under section 321, HRS.

(f) Persons who do not meet adult residential care home requirements and are denied licensure by the department, but who continue to render adult residential care home services to individuals in their homes shall be subject to penalties invoked under chapter 321-20, HRS.

- (g) Serious and substantive violations which may result in suspension or revocation of a license include, but are not limited to, the following:
- (1) Absence of the licensee from the facility without being replaced by a responsible adult;
 - (2) Admitting residents to the home in excess of the licensed capacity stipulated on the current license;
 - (3) Transfer of residents to another facility without informing the agency or person which is paying for all or a portion of the resident's care;
 - (4) Failure to inform all residents of their rights on or before admission;
 - (5) Corporal abuse or punishment of residents;
 - (6) Failure to maintain a written accounting of resident's personal funds received and expended on the resident's behalf by the staff;
 - (7) Failure to properly safeguard all medications and comply with physician's orders;
 - (8) Failure to maintain written records of treatment including medications as ordered by a physician;
 - (9) Failure to develop and practice drills for rapid evacuation of residents in case of fire or other disaster;
 - (10) Failure to notify the department of a significant change in the level of outside the home remunerative activity by the operator;
 - (11) Two or more successive citations for the same deficiencies;
 - (12) Failure to correct cited deficiencies within a specified time;
- (f) Licenses are issued to a named licensee and terminate on the date such individual withdraws from the management, control or operation of a facility due to a change in ownership, termination of employment or otherwise. The licensee shall be personally liable for failure to notify the department prior to the termination date requested.

§11-100-22 Discontinuance of home and revocation of license. (a) A home shall be discontinued and the home operator's license revoked by the department:

- (1) At the request of the home operator. The home operator shall provide written notice to the department of the intent to discontinue operating as an adult residential care home at least thirty days prior to the intended termination date. The department shall confirm the home operator's intent to discontinue operations by sending a written notice of discontinuance and revocation of license by the intended termination date;
- (2) For failure of the home operator to correct deficiencies within time limits set by the representative of the department. When the home operator fails to correct deficiencies, the home operator shall be notified in writing by certified mail of the intent of the department to discontinue use of the home and to revoke the license of the home operator at least thirty days before the planned date of discontinuance and revocation;
or
- (3) Due to the ill treatment, abuse, neglect, or exploitation of residents by the

home operator, designated responsible adults, or other household members as determined by a representative of the department.

- (A) When ill treatment of a resident is evident, the home operator shall be contacted immediately by the department or cooperating agency to discuss the circumstances.
- (B) The department shall notify the cooperating agency of the home immediately when it is factually determined that there is ill treatment, abuse, neglect, or exploitation of a resident. A thirty day prior notice shall not be required, but a written notice of discontinuation shall be provided by certified mail prior to the discontinuance.

(b) The department's written notice of discontinuance and revocation of license shall contain a statement of the reasons for the action, the effective date of the action, and the home operator's right to appeal the department's action.

(c) When a home is discontinued by the department, residents shall be immediately assisted in finding other accommodations except when the residents knowingly and willfully prefer to continue to live in the home and the home operator is aware that keeping the residents means that the operator is operating an unlicensed home and is subject to penalty under the law.

§11-100-23 Appeal of department's decision. (a) Any adult residential care home applicant or operator shall have the right and opportunity to appeal the decision in writing to the director within the thirty day notice period of proposed action or decision under chapter 91, HRS, and department of health rules of practice and procedure. Exception: when home is discontinued under section 11-100-22(a)(3), the home operator shall have thirty days from the date of the notice to appeal the decision in writing to the director of the department provided the license shall be immediately revoked.

(b) Upon the department's receipt of a request to appeal the department's decision, the home operator's license shall be reinstated to provisional license pending the decision on the appeal and for a period not to exceed three full calendar months. During the provisional license period the department shall inform all individuals interested in being placed or in making a placement into the home the reasons for the home operator's provisional license.

(c) The provisional license shall be revoked by the department after the appeal hearing is held and the department's decision is upheld. In the department's action is not upheld by the appeal hearing, action, as appropriate, to reinstate the home operator shall be made.

§11-100-24 Repeal of existing rules. All versions of chapter 12B, Public Health Regulations, which were in effect on January 1, 1986, are repealed.

§11-100-25 through §11-100-48 reserved.

§11-100-49 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected thereby.

MOA DATED MARCH 16, 1998

1. All foods used in the preparation of meals shall be from an approved source. Catered food shall be from an approved food establishment.
2. All potentially hazardous foods shall be cooked to proper temperatures and maintained at temperatures of 45 degrees Fahrenheit or below or 140 degrees Fahrenheit or above except during necessary periods of preparation.
 - a. A thermometer shall be provided in all refrigerators.
 - b. A metal stem thermometer shall be available for checking hot food temperatures.
3. All food shall be protected from potential contamination by insects, rodents or live animals, employees or consumers, poisons or toxic materials, unclean equipment or utensils, and any other agent of public health concern at all times during storage, preparation, display, service, and transportation. Pets shall be kept out of the kitchen at all times.
4. Food handlers shall not work in any capacity if there is a likelihood that the individual may contaminate food or food contact surfaces with pathogenic organisms, or may infect others with pathogenic organisms.
5. Those preparing food shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods. No person shall undertake food preparation without first washing his or her hands.
6. Food and non-food contact surfaces shall be smooth, non-absorbent, and easily cleanable.
7. A kitchen sink with hot and cold running water shall be available for washing all equipment and utensils.
8. All utensils and dishes shall be thoroughly cleaned, and sanitized after each use.
9. Potable water shall be provided to all fixtures.
10. All wastewater shall be disposed of in an approved manner.
11. A toilet and lavatory shall be available in the home for food handlers. A supply of hand cleanser and single use hand drying towels shall be available in the lavatory.
12. All refuse shall be disposed of in a manner so as not to create a nuisance.
13. Effective measures shall be taken to prevent the presence of insects and rodents in the kitchen and dining areas.
14. Floors, walls, and ceilings shall be kept clean and maintained in good repair.
15. Adequate ventilation shall be provided in the kitchen and dining areas.
16. Toxic items, including any personal medication, cosmetics and similar chemical preparations, shall be stored and used so as to prevent the contamination of food or food equipment and utensils.

17. Definitions

"Approved" means acceptable to the director based on the director's determination as to conformance with appropriate standards and good public health practice.

"Potentially hazardous food" means any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients including synthetic ingredients in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.